

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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FCC MAIL ROOM

In the Matter of	)	FCC 95-255
	)	
Replacement of Part 90 by Part 88 to	)	
Revise the Private Land Mobile Radio	)	
Services and Modify the Policies	)	
Governing Them	)	PR Docket No. 92-235
	)	
and	)	DOCKET FILE COPY ORIGINAL
	)	
Examination of Exclusivity and	)	
Frequency Assignment Policies of	)	
the Private Land Mobile Radio Services	)	

**PETITION FOR RECONSIDERATION OF**  
**RULES ADOPTED BY THE COMMISSION ON JUNE 15, 1995**  
**AND RELEASED ON JUNE 23, 1995.**

This Petition for Reconsideration to the Rule Changes are based on the following grounds:

1. The rule changes mandate the use of equipment whose technical feasibility is totally unproven.
2. The rule changes provide inadequate protection against harmful interference to existing users.
3. The coordination system contains a perverse incentive which encourages frequency coordinators to recommend incompatible modes of operation too close together.

4. The rule changes will encourage the filing of strike applications.
5. The reduction in power output on transmitters at higher elevations will technically degrade communications, because of imperfect line of sight and variable atmospheric attenuation.
6. The Commission should exempt Subpart L frequencies from refarming, at least in the L.A. Basin. Subpart L frequencies (470-512 MHz) may be used only in limited geographic areas. Due to the limited size of the area in which these frequencies are licensable, it will be difficult or impossible for coordinators to minimize harmful interference effectively. Also, there already is a great deal of 12.5 KHz spacing where it is technically feasible, so refarming will be of little to no benefit.
7. The Commission has intertwined both an announcement of new rules and a request for comment on proposed rules. This request for reconsideration is being made to the new rules, but should also be read as a comment and objection to the proposals of the Commission.

#### REQUESTED RELIEF

The Commission is requested to scrap all of the rule changes to Part 90 and insure that all of the objections raised herein are addressed. In particular, the Commission is urged to insure that before mandating equipment changes, power level changes, and other technical changes, that all required equipment be in existence and thoroughly tested. Furthermore, the Commission should insure that the role of the

frequency coordinator is clarified, and rules be drafted to prevent strike applications and speculation in frequencies.

### DISCUSSION

The rule changes mandate the use of equipment which does not yet exist, and for which there is no evidence that such equipment will be either available at reasonable prices or will perform as well as existing equipment.

For example, the Commission is mandating 3 1/8 KHz spacing on low power links. At the same time, it acknowledges that ACSB spacing of 5 KHz does not perform adequately in the 150 MHz band. The 12.5 KHz and 6.25 KHz offsets will interfere with existing users. This interference potential is obvious because their new radios will not hear existing wide band users on adjacent channels, because of superior receiver selectivity. However, the existing wide band users will hear, and will therefore face harmful interference from, the offset channel. The coordination system contains no safeguards against interference with existing users, because there are no FCC guidelines or rules which will prevent frequency coordinators from placing incompatible modes of operation on adjacent channels.

In fact, because frequency coordinators "compete", they will have a perverse incentive to make improper coordinations. Specifically, they can compete by making coordinations that other coordinators find objectionable. In other words, they may compete on the basis of liberality of coordinations.

Secondly, because they are in competition for the proposed licensee's coordination dollar, they have no vested interest in protecting adjacent channel users.

The above factors, when considered together, means that there is now an unparalleled opportunity for strike applications to be filed. Specifically, there is nothing which prohibits a user from obtaining an offset channel and forcing the adjacent wide band user to buy out his position, or face harmful interference. One of the unstated, but clear effects of the proposed rule changes is to require existing wide band users to "accept interference" from the narrow band users.

Those unscrupulous persons interested in filing strike applications will have a period of approximately six years in which to identify targets, below 470 MHz who would otherwise be eligible for exclusive use overlay, and file their applications.

Therefore, because of these strike applications, those who are presently the only licensee in a given area on a channel below 470 MHz, can expect with certainty that they will not enjoy exclusive use, by the time they can file for exclusive use, unless they choose to pay "greenmail" to an indeterminate number of strike applicants. The Commission should close this gaping hole in the regulatory scheme. The Commission should look to the Fed Open Market Committee which announces its decisions in a manner which minimizes market disruption, and minimizes speculation. It can also look to the example of the Department of Agriculture, which carefully guards crop reports and other information before its release to prevent

unfair speculation in the marketplace.

There are other technical problems with the rule changes. For example, there is no technical study or technical reason to believe requiring that power be cut will permit existing communication systems to operate in a satisfactory manner. For example, very few mountain top sites have completely unobstructed views to their targets. There is no comparison to satellite systems, where there is complete line of sight to the target.

Accordingly, the power reductions are certain to result in inferior service and inferior coverage to users in many areas. Although mobile power is not being cut, there is no technical reason to believe that mobiles will be able to properly hear the repeater stations at the lower power levels that repeaters or base stations are being forced to operate under.

The power reduction rules do not take into account changing weather and atmospheric conditions, which can cause variable path fading and attenuate a signal from a mountain top to a mobile receiver by more than 20 db.

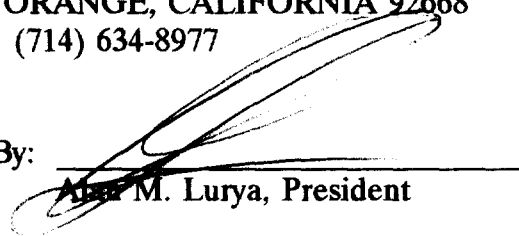
The new rules are unnecessary in the Los Angeles Area, in Subpart L (470-512 MHz) because there already exists 12.5 KHz spacing in many cases where technically feasible. In the L.A. Basin, refarming in this band will have minimal to non-existing benefits, coupled with extreme expense and hardship to existing users.

In summary, the rules are biased against the interests of the existing radio users, who number in the millions. Rules should be implemented which protect the existing users for a substantial period of time. Although there are discussions regarding a ten year phase in, in fact the new rules insure that existing users will almost immediately face potential harmful interference from other incompatible communication systems. The Commission should accept the teachings of the medical profession, who for thousands of years has followed the directive "Primum Non Nocere--First, Do No Harm". The Commission should "go back to the drawing board", and insure that all of its proposed rules meet the objections set forth in this pleading.

Respectfully submitted,

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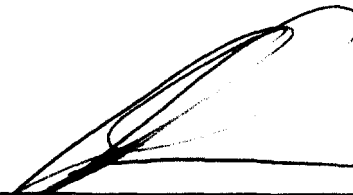
By: \_\_\_\_\_

  
Alan M. Lurya, President

## CERTIFICATE OF SERVICE

I, ALAN M. LURYA, declare that I am over eighteen years of age and I do hereby certify that on this 14th day of July, 1995, I SERVED A COPY BY FEDERAL EXPRESS, to the following:

Mr. William Caton,  
Acting Secretary of the Commission  
Federal Communications Commission  
1919 M St. NW  
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ALAN M. LURYA